GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri K.Anil Kumar S/o K.Satyanarayana, Guntur, against the Proceedings No.D.Dis.No. 1838/2004/C4, dated 21.03.2005 of the District Collector, Guntur, under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders - Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.MS.No. 121 Dated: 02-08-2018
Read the following:

1. Proceedings of the District Collector, Guntur, Dis.No.1838/2004/C4, dated 21.3.2005.
2. Appeal Petition filed by Sri K.Anil Kumar S/o K.Satyanarayana, Student, R/o 8-13-64,Nehru Nagar, 11th line, Guntur District Before Govt. on 20.6.2005.
3. Govt.Memo.No.5609/CV2/2005, dt.20.8.2005.
4. From the District Collector, Guntur, Rc.No.1627/05-C4, dt:09.11.05.
5. Govt. Memo.No.5609/CV2/2005, dt.02.08.2006, 16.07.2007& 01.08.2007.
6. Govt. Letter No.5609/CV.2/2005, dated 14.08.2008.
7. Govt. Memo No.5609/CV.2/2005, dt: 01.05.2012, 24.02.2015, 02.04.2015, 07.12.2016 & 18.08.2017.

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ORDER:

In the reference 1st read above, the District Collector, Guntur has issued orders cancelling ST-Kammara caste certificate obtained from the then Mandal Revenue Officer, Guntur by Sri K.Anil Kumar S/o K.Satyanarayana.

2. In the reference 2nd read above, Sri K.Anil Kumar S/o K.Satyanarayana has filed an appeal petition before the Government, against the proceedings of the District Collector, Guntur. After examining the said Appeal Petition, Government have admitted the appeal petition, stay rejected and called for the parawise remarks and connected records from the District Collector, Guntur in the reference 3rd read above.

3. In the reference 4th read above, the District Collector, Guntur has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri K.Anil Kumar S/o K.Satyanarayana.

4. The said Appeal Petition has been posted for hearing on 05.08.2006,23.07.2007, 16.08.2007, 23.08.2008, 11.05.2012, 28.02.2015, 18.04.2015, 24.12.2016 & finally on 16.09.2017 and the same has been informed to the Appellant and the Counsel for the Appellant in the references 5th to 7th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. The appellant attended the hearing on 16.09.2017 and argued his case.

5. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, Guntur and proceedings of the District Collector, Guntur, dated 21.03.2005 the Appellate Authority is observed that :

I. The appellant in his grounds has stated that the District Collector has failed to see that the appellant has given particulars of (5) of his relatives and details and grossly erred in passing orders on the basis of incomplete report based on improper and incomplete enquiry. The learned Collector should not have cancelled the caste certificate pending the detailed study and report by the Director, TCR&TI.

[P.T.O]

II. The District Level Scrutiny Committee has observed that the candidate and his father gas given statements about the particulars of migration from the Scheduled area but failed to furnish the particulars of migration from the Scheduled area and the address particulars of the relatives of the candidate were obtained from them and the concerned MROs were addressed to inform the caste particulars of the relatives and only one report was received from the MRO., Mahaboobabad, Warangal District, stating that Kandrathi Venkateswarlu, uncle of the candidate belongs to Kammari BC-B caste. The remaining reports are not received from the other Districts and as the report from Mahaboobabad Mandal of Warangal was contrary to the candidate's statement, the District Level Scrutiny Committee decided that a detailed study may be conducted by the staff of Director, TCR&TI, Hyderabad and a letter has been drafted already in this regard to cancel the Kammara caste certificate issued to Kandrathi Anil Kumar by the MRO, Guntur, as the MRO is not competent authority to issue Kammara, ST caste certificate in the non Scheduled areas of the state. The Hon'ble High Court in WP 16937 of 2004, dated 21.9.2004 stated that the MRO, was not the competent authority to issue the certificate, and hence cancelled the said certificate. Finally, the caste certificate was cancelled as it was not issued by the competent authority and as such it was invalid.

III. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

IV. The Appellate Authority is observed that during the course of hearing of the case that the appellant submitted his arguments as per his grounds in appeal petition and stated that the DLSC without getting the particulars of his five relatives submitted the report and the District Collector cancelled the certificate even though DLSC decided to commit detailed study should be conducted by the Director TCR & TI and he did not follow the rules while canceling the certificate. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that except the above contention nothing was placed for appreciation of the case of the appellant and the said ground is not tenable in the eye of law. It is observed that as seen from the record that earlier during the course of appeal on the community claim of the appellant on 17-8-2007 it is decided to constitute a study and to obtain a report and accordingly the director TCR & TI submitted the report in which he has stated that the claim of ST Kammara, Kandrathi Surname belongs to Viswabrahmin BC Caste. It is further brought to the notice as per the guidelines prevailing that Kammara ST caste certificate is against the Government rules as the person who issued certificate is not competent to issue the same. That as per the act that the burden of proof lies on the appellant and it is the responsibility of the appellant to produce necessary evidence and documents to claim the same. In the instant case, the appellant except relaying the evidence and documents filed before the lower authority failed to produce any additional material for re- appreciation of the case on hand. As seen from the record the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity either in the findings of the DLSC or the learned District Collector, Guntur District. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority passed the order as per law which does not deserve any interference

6. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the appeal petition filed by Sri K.Anil Kumar S/o K.Satyanarayana does not deserve any interference. Hence, Proceedings of the District Collector, Guntur issued vide Dis.No. 1838/2004/C4, dated 21.3.2005, is hereby upheld and the Appeal Petition filed by Sri K.Anil Kumar S/o K.Satyanarayana, is hereby dismissed and the Certificate issued by the then Mandal Revenue Officer, Guntur is deemed to be cancelled .

[Contd..]

7. The District Collector, Guntur is directed to take necessary consequential action in the matter.

8. The records (containing Dis.No.1838/2004/C4, NF: 8 pages & CF: 198 pages) received from the District Collector, Guntur through in the reference 4th read above, are returned herewith in original to the District Collector, Guntur and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Guntur.
(with original records) (BY RPAD)

The Tahsildar, Macherla, Guntur District .

Sri K.Anil Kumar S/o K.Satyanarayana,
R/o 8-13-64, Nehru Nagar,11th line, Guntur District.

Copy to
The Director, TCR& TI, AP, Amaravathi.
The PS to Minister(SWE&TWE)
The P.S to Principal Secretary(SW&TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER